

Notice of Allowability

Application No.

10/072,599

Examiner

Benjamin Huh

Applicant(s)

DAHLA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/19/03.
2. ☒ The allowed claim(s) is/are 1-11, 14, 25-27, 37, 83-89.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

KEVIN C. SIRMONS

SUPPLEMENTARY PATENT EXAMINER

Kevin C. Sirmons

ALLOWANCE

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Brian E. Szymczak on 10/18/06.

The application has been amended as follows:

In claim 1 line 11 after "in the vicinity of said active electrode and " delete -- the gap -- and insert "between the gaps"

In claim 7 line 13 after "electrode coil is wound" insert "in a proximal direction"

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 83-88 been renumbered 84-89.

Insert claim 83 "The probe of claim 1, wherein the active electrode comprises a distal end shaped into a flattened disc."

Claims 13, 15-22, 28-36, and 38-82 are cancelled.

The following is an examiner's statement of reasons for allowance: Claim 1 and it's dependents are allowed because the recited combination of elements of an electrosurgical probe including a shaft, a return electrode formed into a coil having a lumen and a plurality of turns with gaps between the turns, the return electrode being supported by the shaft, an active electrode disposed through the lumen and projecting beyond the coil and also being supported by the shaft, a spacer disposed around the active electrode and supported by the shaft and also insulated from the return electrode, and an electrically conductive fluid delivery element adapted to deliver the fluid between the gaps between turns of the return electrode coil and in the vicinity of the active electrode is not found nor fairly taught in the prior art of record, as argued by applicant and agreed by examiner.

Claim 7 and it's dependents are allowed because the recited combination of elements of an electrosurgical probe including a shaft, a return electrode formed into a coil having a lumen and being supported by the shaft, the coil being wound in a proximal direction from a length of wire having a distal terminus and wherein the terminus is arranged within the return electrode coil lumen, an active electrode disposed through the lumen and projecting beyond the coil and also being supported by the shaft,

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a spacer disposed around the active electrode and supported by the shaft and also insulated from the return electrode, and an electrically conductive fluid delivery element adapted to deliver the fluid in the vicinity of the active electrode is not found nor fairly taught in the prior art of record, as argued by applicant and agreed by examiner.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Huh whose telephone number is 571-272-8208. The examiner can normally be reached on M-F: 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BHH

BHH

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read "Kevin C. Sirmons", written in a cursive style.